

# CAVANAGH

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October 5, 2017

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File No. 50211-3

Wanda Calderon  
Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 26<sup>th</sup> Floor  
New York, NY 10007-1866

**Re: Freedom of Information Act Request  
Charlestown Mall Site**

Dear Ms. Calderon:

Pursuant to the Freedom of Information Act (5 U.S.C. Section 552), I hereby request a copy of any and all documents in the files of the Environmental Protection Agency (EPA) Region 2 concerning the Charlestown Mall Site and correspondence to and from any employees of the EPA Region 2 with representatives of the Charlestown Mall of Utica, LLC or Mr. Michael Cancilla, Esq. In particular, correspondence from or to the EPA employees, Henry Guzman, Esq., Asst. Regional Counsel or Terry Kish, On Scene Coordinator, concerning the Charlestown Mall Site, CERCLIS ID # NYC200400513 would be relevant. The relevant EPA documents and files would likely exist after January 1, 2007.

The term "document" as used herein is used in the broadest possible sense and means, without limitation, any related written, printed, typed, photostated, photographed, microfilmed, recorded, electronic or otherwise reproduced communication or representation, whether composed of letters, words, numbers, pictures, sounds or symbols, or any combination thereof. This definition includes copies or duplicates of documents contemporaneously or subsequently created which have any nonconforming notes or other markings. Without limiting the generality of the foregoing, "document" includes, but is not limited to, legal surveys, plats, correspondence, memoranda, notes, records, letters, e-mail, envelopes, telegrams, messages, studies, analyses, contracts, agreements, projections, estimates, working papers, summaries, statistical statements, financial statements or work papers, accounts, analytical records, reports

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and/or summaries of investigations, opinions or reports of accountants, other reports, trade letters, forms, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, forecasts, drawings, diagrams, maps, instructions, minutes of meetings, or of other communications, questionnaires or surveys, charts, graphs, photographs, phonograph records, films, tapes, disks, data cells, printouts, all other data compilations from which information can be obtained (translated, if necessary, into usable form), any preliminary versions, drafts or revision of any the foregoing, and other writings or documents of whatever description or kind, including non-identical copies of any of the foregoing. Fees are authorized up to \$200.00. Please provide an estimate of any fees in excess of this amount.

Thank you for your time and consideration in this matter. If you cannot send a copy of the documents requested, I request the opportunity to commence a personal review of these documents. Please call me if you have any questions at (602) 322-4040.

Very truly yours,



Jerry D. Worsham II  
For the Firm

JDW:jmc

Enc. EPA Region II Information on the Charlestown Mall Site

cc: Henry Guzman, Esq. – Assistant Regional Counsel

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through October 2, 2017.

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**Selected Entity Name:** CHARLESTOWN MALL OF UTICA, LLC

**Selected Entity Status Information**

**Current Entity Name:** CHARLESTOWN MALL OF UTICA, LLC

**DOS ID #:** 3581861

**Initial DOS Filing Date:** OCTOBER 18, 2007

**County:** ONEIDA

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC LIMITED LIABILITY COMPANY

**Current Entity Status:** ACTIVE

**Selected Entity Address Information**

**DOS Process** (Address to which DOS will mail process if accepted on behalf of the entity)

CHARLESTOWN MALL OF UTICA, LLC

3 HOPPER STREET

UTICA, NEW YORK, 13501

**Registered Agent**

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by viewing the certificate.

**\*Stock Information**

**# of Shares**

**Type of Stock**

**\$ Value per Share**

No Information Available

\*Stock information is applicable to domestic business corporations.

U.S. ENVIRONMENTAL PROTECTION AGENCY  
POLLUTION/SITUATION REPORT  
Charlestown Mall Site - Removal Polrep  
Final Removal Polrep



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region II

**Subject:** POLREP #35  
RV-1 Final  
Charlestown Mall Site  
A239  
Frankfort, NY  
Latitude: 43.0891260 Longitude: -75.1833230

**To:**  
**From:** Terry Kish, On Scene Coordinator  
**Date:** 12/22/2011  
**Reporting Period:** 12/3/11 - 12/19/11

**1. Introduction**

**1.1 Background**

<b>Site Number:</b>	A239	<b>Contract Number:</b>	EP-S2-10-01
<b>D.O. Number:</b>	10	<b>Action Memo Date:</b>	7/16/2010
<b>Response Authority:</b>	CERCLA	<b>Response Type:</b>	Time-Critical
<b>Response Lead:</b>	EPA	<b>Incident Category:</b>	Removal Action
<b>NPL Status:</b>	Non NPL	<b>Operable Unit:</b>	
<b>Mobilization Date:</b>	8/16/2010	<b>Start Date:</b>	8/16/2010
<b>Demob Date:</b>	12/19/2011	<b>Completion Date:</b>	12/19/2011
<b>CERCLIS ID:</b>	NYC200400513	<b>RCRIS ID:</b>	
<b>ERNS No.:</b>		<b>State Notification:</b>	
<b>FPN#:</b>		<b>Reimbursable Account #:</b>	

**1.1.1 Incident Category**

Inactive Production Facility

**1.1.2 Site Description**

**1.1.2.1 Location**

The Charlestown Mall Site is located at 2205 Bleecker Street in the Town of Frankfort, Herkimer County, NY (43.089126 latitude, -75.183323 longitude). The Site is a former manufacturing facility that was used

by various owners and industries from as early as 1894 until the mid 1970s when manufacturing ended at the Site. The Site is approximately 14.5 acres in size, of which, approximately 1.7 acres is located in the City of Utica, Oneida County, while the remainder is located in the Town of Frankfort, Herkimer County, New York.

The Site is located at the eastern edge of the City of Utica in a largely commercial area. Commercial properties border the Site to the east, north, west and southeast. The Site is bordered to the southwest by the Masonic Care Community of New York, a large assisted living facility that has the capacity to serve approximately 300 residences. Approximately 400 residences are located within one mile of the Site and approximately 950 people live within one mile of the Site.

Savage Arms manufactured small arms and munitions at the Site until after WWII. Manufacturing at the Site slowed until the property was eventually sold in 1956 to Sperry Univac where early computer parts were developed and assembled. Sperry Univac operated at the site until operations ceased in 1976 and the property was sold. A portion of the facility was redeveloped as a retail shopping outlet known as the Charlestown Outlet Complex. At its peak, the shopping outlet housed 52 stores, two restaurants an off-track betting parlor and a food court. The Charlestown Mall operated at the west end of the site until 1991 when the complex became the Charlestown Business Complex which housed commercial tenants of various types.

The property was purchased by Charlestown Mall of Utica, LLC in 2007 and currently commercial use of the property is very limited.

#### **1.1.2.2 Description of Threat**

In recent years, several buildings at the Site have fallen into advanced states of deterioration. In early 2008, the New York State (NYS) Department of Labor (DOL) and NYS Department of Environmental Conservation (DEC) directed a demolition company to cease unpermitted demolition activities at the Site as no steps were taken to abate asbestos containing materials from the buildings and no variance was obtained prior to demolition. NYS DOL documented the presence of Asbestos Containing Materials (ACM) in the resulting debris piles. In October 2008, NYSDEC referred the Site to EPA for a removal site evaluation. As a result of efforts by the owner to obtain funding to come into compliance at the site, NYSDEC continued negotiations through October of 2009, when NYSDEC asked EPA to resume evaluation of the Site.

Evaluation of the Site in 2008 and 2009 has identified the presence of friable asbestos, corrosive and ignitable liquids, chlorinated solvents stored in drums and the presence of transformers filled with PCB-containing dielectric fluid which present direct contact threats to the public.

#### **1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results**

On November 4, 2008, EPA Removal Action Branch (RAB), Criminal Investigation Division (CID) along with Removal Support Team (RST) contractors accompanied the NYSDEC Bureau of Environmental Crimes Investigations (BECI) in the execution of a search warrant to collect samples at the Site. Samples confirmed the presence of ACM both in demolition debris and within remaining deteriorated structures. During the investigation, electrical transformers were identified, some of which had been subject to salvaging. Samples confirmed that dielectric fluid released as a result of salvaging, contained PCBs in high concentrations. A sample of oily solids collected from the floor of the transformer area revealed a concentration of 44,000 mg/kg PCBs. This investigation focused solely on the dilapidated/demolished structures on the eastern half of the Site. At that time, approximately nine commercial tenants were estimated to occupy the largely empty Site. Following this assessment, NYSDEC entered into enforcement negotiations with the owner of the property. Further evaluation of the Site by EPA was suspended, pending the outcome of those negotiations.

In October 2009, NYSDEC requested that EPA resume evaluation of the Site. EPA performed an additional removal assessment of the Site in November 2009. This assessment was expanded to include the onsite boiler house (building 6) because evidence of salvaging was observed which had

released dielectric fluid onto the ground outside the building. Evaluation of the building identified drums containing corrosive, ignitable, and toxic liquids present with the building. On November 19, 2009, EPA directed the owner of the property, Charlestown Mall, LLC, to secure the boiler house (Building 6) due to the ongoing unauthorized salvaging operations, and to dispose of the abandoned hazardous substances within the building. On December 2, 2009, EPA visited the Site and confirmed that Building 6 had been secured, however the owner did not dispose of the drums within the building.

Further evaluation of the large volume of demolition debris was also conducted during the November 2009 assessment. A thorough search of surface of the pulverized debris consistently confirmed small fragments of friable ACM to be present throughout the areas searched. Asbestos content of the fragments ranged from <1% to 80% asbestos (chrysotile and/or amosite).

## **2. Current Activities**

### **2.1 Operations Section**

#### **2.1.1 Current Activities**

On December 5, RST collected 9 surface soil samples from the excavation which occurred in the "dump area" along the northern property line. Asbestos was not detected in any of these samples. Clean fill has been supplied to backfill discrete areas along the road to establish a gradual grade.

On December 6, Kemron completed the six inch soil excavation in the area between the building 5 and 3 foundations and in the area south of Building 6. Following the excavation, RST collected 10 post-excavation soil samples in these areas. Results for 8 of the samples confirmed that asbestos was not present, while two locations detected asbestos at <0.25%. Because field observations indicated that one additional 6 inch soil excavation in this area would reach the apparently native clay, the additional excavation of the <0.25% samples was directed by the OSC in order to achieve a non-detect sample result. The re-excavation was completed in this area on December 9, and two additional samples were submitted for asbestos analysis. Results for these samples were received on December 12 and confirmed that asbestos was not present.

On December 7, RST collected 4 surface soil samples from a soil area west of the Building 17 footprint and south of the Building 7 footprint. Results of these samples were received on December 10 and confirmed that 3 of the four samples did not contain asbestos, while one of the samples contained 0.25% asbestos. The area represented by this sample was marked out and an additional 6 inches of soil was excavated by Kemron on December 10. Excavation of this area was completed on December 13 and an additional soil sample was collected and submitted for asbestos analysis. The result for this sample was received on December 15 and confirmed that asbestos was not present in the sample. Backfill was placed in this area to even out the resulting grade.

The post-excavation soil samples were submitted to EMSL analytical for analysis. The samples were prepared according to the California Air Resources Board (CARB) 435 preparation then EPA Method 600/R-93/116 PLM analysis 400 point count including field of view. Results of these samples confirmed that asbestos was absent in 5 of the 7 samples. The area represented by the 2 samples which showed positive detections of asbestos, was marked out on December 8 and an additional 6 inch excavation was initiated.

From December 5 through December 19, Kemron continued to load out asbestos contaminated debris and soil. A total of 1,115.86 tons of debris were shipped off site to the Ava Landfill where it is placed directly into a pre-dug trench and covered immediately. This completed the load out of asbestos contaminated debris. A total of 14,504.61 tons of friable asbestos contaminated debris was shipped off site.

Beginning on December 6, Kemron began to pressure wash the foundation of former buildings 5 and 7 a second time based on the elevated micro-vac sample results received after decontamination was initially

completed. Water generated from pressure washing was pushed to edges of the concrete and allowed to infiltrate. The remaining sediments were scooped up and loaded out with the asbestos contaminated debris. Pressure washing was completed in these areas on December 10. The foundation of former building 3 was pressure washed a second time from December 11 to 15. Once completed, RST collected 16 additional micro-vac samples were collected from the concrete foundations. The results of the samples were received on December 22. Asbestos was not detected in 15 of the 16 samples. Chrysotile asbestos was detected in one sample collected from the former Building 5 foundation at a concentration of 15,800 structures per square centimeter. There are no regulatory standards in which to compare the micro-vacuum results, therefore, the results are strictly informational.

RST performed daily perimeter air sampling for asbestos at four stations located around the perimeter of the Site. To date, perimeter air sampling has not identified any positive detections of asbestos. Based on the nature of the work remaining at the Site and based on review of the extensive data set collected thus far, the OSC determined that continued particulate monitoring is no longer necessary.

ERRS contractors completed demobilization of the Site on December 19, 2011

### 2.1.2 Response Actions to Date

On November 19, 2009, EPA directed the owner of the Site, Charlestown Mall of Utica, LLC to secure Building 6 and to dispose of the drums containing hazardous substances within the building. On December 2, 2009, EPA visited the Site and confirmed that the building had been secured; however, the owner did not dispose of the materials inside of the building. The abandoned materials will be disposed of by EPA. On August 16, 2010, EPA mobilized ERRS contractors to the Site to initiate removal activities as reported in Section 2.2.1.1.

### 2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)

In November 2008, NYSDEC BECI along with EPA Removal Action Branch and Criminal Investigation Division executed a search warrant at the Site in response to the unpermitted demolition and potential asbestos release which had been documented at the Site. In 2009, NYSDEC directed Charlestown Mall of Utica, LLC to perform a cleanup of the asbestos contaminated debris and PCBs at the Site. Several PRPs have been identified by EPA's Office of Regional Counsel (ORC) and efforts are ongoing to establish additional potentially liable parties. A complete summary of the enforcement status can be obtained through EPA ORC.

### 2.1.4 Progress Metrics

#### Waste Disposal

<b>Waste Stream</b>	<b>Date</b>	<b>Quantity</b>	<b>Manifest #</b>	<b>Treatment</b>	<b>Disposal Facility</b>
RQ,Asbestos, NA2212, 9, PG III	12/5/11	266.50 Tons	CTM864 - CTM879	Landfill	Oneida Herkimer Solid Waste Authority - Ava Landfill NYS Route 294 Ava, NY 13303
RQ,Asbestos, NA2212, 9, PG III	12/6/11	131.16 Tons	CTM880 - CTM887	Landfill	Oneida Herkimer Solid Waste